

§ 21.47

of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the appropriate Special Agent in Charge (see § 10.22 of this subchapter).

[39 FR 31326, Aug. 28, 1974]

§ 21.47 Depredation order for double-crested cormorants at aquaculture facilities.

(a) *What is the purpose of this depredation order?* The purpose of this depredation order is to help reduce depredation of aquacultural stock by double-crested cormorants at private fish farms and State and Federal fish hatcheries.

(b) *In what areas can this depredation order be implemented?* This depredation order applies to commercial freshwater aquaculture facilities and to State and Federal fish hatcheries in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Minnesota, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

(c) *What does this depredation order allow and who can participate?* (1) This depredation order authorizes landowners, operators, and tenants (or their employees or agents) actually engaged in the commercial, Federal, or State production of freshwater aquaculture stocks to take, without a Federal permit, double-crested cormorants when they are found committing or about to commit depredations to aquaculture stocks. This authority is applicable only during daylight hours and only within the boundaries of freshwater commercial aquaculture facilities or State and Federal hatcheries.

(2) This depredation order authorizes employees of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service to take double-crested cormorants, with appropriate landowner permission, at roost sites in the vicinity of aquaculture facilities, at any time, day or night, during the months of October, November, December, January, February, March, and April.

(3) Authorized employees of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service may designate agents to carry out control,

provided these individuals act under the conditions of the order.

(d) *What are the terms and conditions of this order?* (1) Persons operating under paragraph (c)(1) of this section may only do so in conjunction with an established nonlethal harassment program as certified by officials of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service. Wildlife Services directive 2.330 outlines this certification process.

(2) Double-crested cormorants may be taken only by shooting with firearms, including rifles. Persons using shotguns are required to use nontoxic shot as listed in 50 CFR 20.21(j).

(3) Persons operating under this depredation order may use decoys, taped calls, or other devices to lure within gun range birds committing or about to commit depredations.

(4) Persons operating under this depredation order must obtain appropriate landowner permission before implementing activities authorized by the order.

(5) Double-crested cormorants may not be killed contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the person possesses the appropriate State or other permits, if required.

(6) Persons operating under this depredation order must properly dispose of double-crested cormorants killed in control efforts:

(i) Individuals may donate birds killed under authority of this order to museums or other such scientific and educational institutions for the purposes of scientific or educational exhibition;

(ii) Individuals may also bury or incinerate birds taken; and

(iii) Individuals may not allow birds taken under this order, or their plumage, to be sold, offered for sale, bartered, or shipped for purpose of sale or barter.

(7) Nothing in this depredation order authorizes the take of any migratory bird species other than double-crested cormorants. Two look-alike species co-occur with double-crested cormorants in the southeastern States: the anhinga, which occurs across the

50 CFR Ch. I (10–1–08 Edition)

southeastern United States, and the neotropic cormorant, which is found in varying numbers in Texas, Louisiana, and Oklahoma. Both species can be mistaken for double-crested cormorants, but take of these two species is not authorized under this depredation order. Persons operating under this order must immediately report the take of a migratory bird species other than double-crested cormorants to the appropriate Service Regional Migratory Bird Permit Office.

(8) Nothing in this depredation order authorizes the take of any species protected by the Endangered Species Act. Persons operating under this order must immediately report the take of species protected under the Endangered Species Act to the Service.

(i) To protect wood storks and bald eagles, the following conservation measures must be observed within any geographic area where Endangered Species Act protection applies to these species: All control activities are allowed if the activities occur more than 1,500 feet from active wood stork nesting colonies, more than 1,000 feet from active wood stork roost sites, and more than 750 feet from feeding wood storks, and if they occur more than 750 feet from active bald eagle nests.

(ii) At their discretion, landowners, operators, and tenants may contact the Regional Migratory Bird Permit Office to request modification of the measures listed in paragraph (d)(8)(i) of this section. Such modification can occur only if the Regional Director determines, on the basis of coordination between the Regional Migratory Bird Permit Office and the Endangered Species Field Office, that wood storks and bald eagles will not be adversely affected.

(iii) If adverse effects are anticipated from the control activities in a geographical area where Endangered Species Act protection applies to wood storks or bald eagles, either during the intra-Service coordination discussions described above or at any other time, the Regional Migratory Bird Permit Office will initiate consultation with the Endangered Species Field Offices.

(9) Persons operating under this depredation order must:

(i) Keep a log recording the date, number, and location of all birds killed each year under this authorization;

(ii) Maintain this log for a period of 3 years (and maintain records for 3 previous years of takings at all times thereafter); and

(iii) Each year, provide the previous year's log to the appropriate Service Regional Migratory Bird Permit Office. Regional Office addresses are found in §2.2 of subchapter A of this chapter.

(10) We reserve the right to suspend or revoke the authority of any Agency or individual granted by this order if we find that the specified purpose, terms, and conditions have not been adhered to by that Agency or individual or if the long-term sustainability of double-crested cormorant populations is threatened by that Agency's or individual's action(s). The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this depredation order. For purposes of §13.29(e), appeals shall be made to the Director.

(e) *Does this section contain information collection requirements?* Yes, the information collection requirements in this section are approved by the Office of Management and Budget (OMB) under OMB control number 1018-0121. Federal agencies may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(f) *When does this depredation order expire?* This depredation order will automatically expire on April 30, 2009, unless revoked or extended prior to that date.

[68 FR 58034, Oct. 8, 2003]

§21.48 Depredation order for double-crested cormorants to protect public resources.

(a) *What is the purpose of this depredation order?* The purpose of this depredation order is to reduce the occurrence and/or minimize the risk of adverse impacts to public resources (fish, wildlife,